

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X		
US AIRWAYS, INC.,	:	
	:	
Plaintiff,	:	11 Civ. 2725 (LGS)
	:	
-against-	:	<u>ORDER</u>
	:	
SABRE HOLDINGS CORP., et al.,	:	
	:	
Defendants.	:	
-----X		

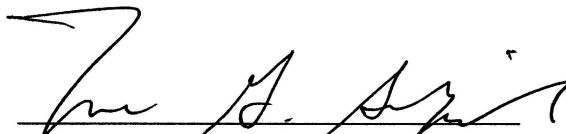
LORNA G. SCHOFIELD, District Judge:

WHEREAS, US Airways has moved *in limine*, at Docket No. 1102, to preclude at trial evidence or argument concerning Sabre’s *in pari delicto*, unclean hands, waiver, and estoppel affirmative defenses. It is hereby

**ORDERED** that the motion is **GRANTED** because it is the law of the case per the Court’s prior ruling declining to instruct the jury on “equal participation” and related defenses. *See Perma Life Mufflers, Inc. v. Int’l Parts Corp.*, 392 U.S. 134 (1968), *overruled on other grounds by Copperweld Corp. v. Indep. Tube Corp.*, 467 U.S. 752 (1984); *Gatt Comm. Inc., v. PMC Assocs., LLC*, 711 F.3d 68, 81 (2d Cir. 2013); *see also* 12/12/2016 Trial Transcript 5360-66 and ECF 724. Sabre has not identified any intervening change of law compelling a different result, nor does the addition to the trial of the monopoly claim change the result since the claim concerns competitive harm, not just to Plaintiff as a contractual counterparty, but to all participants in the market subjected to Sabre’s alleged monopoly power.

The Clerk of Court is respectfully directed to close the motion at Dkt. No. 1102.

Dated: April 1, 2022  
New York, New York

  
LORNA G. SCHOFIELD  
UNITED STATES DISTRICT JUDGE